

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

RICO SUN TOURS, INC.

Plaintiff,

v.

EDGARD CAPELES VARGAS;
RICARDO SERRA CASTILLO;
RICARDO RIVAS TORRES;
GERMÁN VÁZQUEZ;
WILLIAM TORRES RODRIGUEZ;
SAN JUAN HAPPY TOURS, CORP;
UNITED TOUR GUIDES COOP OF
PUERTO RICO;
UNIÓN DE TRANSPORTISTAS Y
RAMAS ANEXAS, INC.

Defendants.

CIVIL NO. 14-cv-1583 (JAG)

**PLAINTIFF’S OPPOSITION TO DEFENDANT UTRA’S
MOTION TO DISMISS (DKT. NO. 23)**

Plaintiff, Rico Sun Tours, Inc., (“RST”), by and through undersigned counsel, respectfully requests that the Court deny co-defendant, Unión de Transportistas y Ramas Anexas, Inc.’s (“UTRA”) motion to dismiss (Dkt. No. 23), stating and praying as follows:

1. On September 17, 2014, co-defendant, UTRA, through its president, Germán Vázquez, filed a motion to dismiss the complaint based on insufficient service of process. (Dkt. No. 23, ¶4, at 1).

2. Fed.R.Civ.P. 4 provides the methods for serving the summons and the complaint in a civil action. It is settled law that a corporation, partnership or an association within a judicial district of the United States can be duly served through “...an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process...”

Fed.R.Civ.P. 4(h)(1); see also *Berrios v. Citibank N.A.*, 2012 WL 1600454, * 1 (D.P.R. 2012). Since UTRA is a trade union located within the United States District Court for the District of Puerto Rico it falls under the purview of Fed.R.Civ.P. 4(h)(1).

3. RST served a copy of the complaint and summons upon UTRA's president, Germán Vázquez, (Dkt. No. 8), a copy of which was also filed with RST's motion for default and entry of judgment against UTRA. (Dkt. No. 22 and 22-1).

4. Because Mr. Vázquez has expressly acknowledged that he is UTRA's president, service of process upon UTRA was duly executed pursuant to Fed.R.Civ.P. 4(h). (Dkt. No. 23, ¶2 at 1). Accordingly, UTRA's contentions are meritless and its motion to dismiss the complaint must be denied. (Id.).

WHEREFORE, because UTRA was duly served, yet it has failed to file an answer to the complaint within the timeframe provided by law, its motion to dismiss (Dkt. No. 23) must be denied and RST's motion for default entry of judgment should be granted (Dkt. No. 22).

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 30th day of September, 2014.

CASELLAS ALCOVER & BURGOS, P.S.C.

P.O. Box 364924
San Juan, Puerto Rico 00936-4924
Tel: (787) 756-1400
Fax: (787) 756-1401

/s/ César T. Alcover Acosta
CÉSAR T. ALCOVER ACOSTA,
USDC-PR 204311
Email: calcover@cabprlaw.com

/s/ Sarika J. Angulo Velázquez
SARIKA J. ANGULO VELAZQUEZ,
USDC-PR 230502
Email: sangulo@cabprlaw.com